THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11435 of 1998

Dated:30.08.2006

Between:

Ghousia Mosque and Grave yard.

…Petitioners

and

Mandal Revenue Officer and others.

…Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.11435 of 1998

ORDER:

This Writ Petition is filed challenging the order of the Mandal Revenue Officer, Serilingampally, the first respondent herein in proceedings No.B/739/98, dated 31.03.1998. The said order was passed in purported exercise of the power under Section 4 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'), ordering resumption of land admeasuring Acs.5.00 in Survey No.41/3 situated at Khanampet Village of Serilingampally Mandal in Ranga Reddy District.

The petitioner-wakf is represented by one Syed Ghouse Ahmed Quadri. He alleges that his father purchased Ac.1.00 of land in Survey No.41/3 of Khanampet Village and created a wakf nominating him as Managing Trustee. The said land is used as graveyard and Darga. After the death of his father, the petitioner was appointed as Administrative Officer. He alleges that as per the directions of the second respondent, the first respondent passed the impugned order ordering resumption of the land without any notice to him.

A counter affidavit is filed by the first respondent. It is stated that the land admeasuring Acs.5.00 in Survey No.41/3 of Khanampet Village was assigned to one Shankaraiah. After the death of the original assignee, the land was sold by his legal heirs to

Smt.Mohammadi Begum and the petitioner in violation of the conditions of assignment. Therefore, the land admeasuring Acs.4.20 guntas has been resumed for contravention of Section 3(2) of the Act. The land admeasuring Ac.0.20 guntas covered by Mosque and graves was however not resumed to the Government and it has been left intact. It is also alleged that the Mosque was constructed after purchasing the assigned land. No reply affidavit is filed by the petitioner.

It is primarily contended that the first respondent passed the impugned order as per the instructions of the second respondent who is the appellate authority under the provisions of the Act. It is also urged that the impugned order is passed without notice, and therefore, it is illegal.

A perusal of the impugned order would certainly lead to an inference that the Mandal Revenue Officer passed the orders as instructed by the Revenue Divisional Officer and there was no notice to the petitioner, though it appears that notice was issued undisclosed to the individual. For this reason, it is contended that the impugned order is unsustainable. As remanding the matter to the Mandal Revenue Officer would be futile, having regard to the fact that the Mandal Revenue Officer passed orders as directed by the Revenue Divisional Officer, this Court is of considered opinion that the petitioner should be given liberty to approach the Joint Collector by filing a revision under Section 4-B of the Act, which provides that it shall be competent to the District Collector/Joint Collector to examine the record of any Officer subordinate to him to satisfy as to its regularity, correctness, legality or propriety provided that such proceedings or decision is not one taken under subsection (2) of Section 4-A of the Act.

The petitioner is given liberty to file a revision before the Joint Collector within a period of two weeks from the date of receipt of a copy of this order. As and when such revision is filed, the Joint Collector, Ranga Reddy District, shall entertain and dispose of the same without being influenced by any observations made hereinabove, if necessary, by conducting personal inspection.

The Writ Petition is accordingly disposed of. No costs.

_____

(V.V.S.RAO, J)

30.08.2006
vs